



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 20, 1992

Ms. Tamara Armstrong
Assistant County Attorney
Travis County
P. O. Box 1748
Austin, Texas 78767

OR92-414

Dear Ms. Armstrong:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, V.T.C.S. article 6252-17a. Your request was assigned ID# 16534.

You have received a request for a copy of a certain letter. The requestor seeks "a copy of the letter [Travis County Judge Bill Aleshire] sent to Travis County District Judges in the past month concerning the duties and responsibilities of County Auditor Susan Spataro." You have submitted for our review a letter which you believe might be responsive to the request and claim that it is excepted from required public disclosure by Open Records Act section 3(a)(11).


Section 3(a)(11) excepts from public disclosure "inter-agency or intra-agency memorandums or letters which would not be available by law to a party in litigation with the agency." It is well established that the purpose of section 3(a)(11) is to protect from public disclosure advice, opinion, and recommendation used in the decisional process within an agency or between agencies. This is intended to encourage open and frank discussion in the deliberative process. See *e.g.*, *Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.--San Antonio 1982, writ ref'd n.r.e.); Attorney General Opinion H-436 (1974); Open Records Decision Nos. 538 (1990); 470 (1987). Purely factual information, however, does not constitute advice, opinion, or recommendation and may not be withheld under section 3(a)(11). Open Records Decision No. 450 (1986).

We have examined the letter submitted for our review. We conclude that some of the requested information constitutes advice, opinion, or recommendation. For your convenience, this information has been marked and may be withheld from

required public disclosure under Open Records Act section 3(a)(11). The remaining information, however, is purely factual and must be released.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-414.

Yours very truly,



Geoffrey Hennessey
Assistant Attorney General
Opinion Committee

GH/GCK/lmm

Enclosure: Marked Document

Ref.: ID# 16534

cc: Ms. Michelle T. Johnson
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